

Additions to Aquatic Statutes Resulting from Recodification of Title 79 Upland Statutes

DRAFT RECODIFICATION

The recodification of Title 79 Upland Statutes will require changes to numerous RCW citations in Chapters 79.90 through 79.96. These changes will be made when the recodification is presented in bill format.

Chapter 79.90 RCW AQUATIC LANDS—IN GENERAL

RCW ~~79.24.580~~ 79.90.245 Deposit, use of proceeds from sale or lease of aquatic lands or valuable materials therefrom--Aquatic lands enhancement project grant requirements--Aquatic lands enhancement account.

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects.

In providing grants for aquatic lands enhancement projects, the department shall require grant recipients to incorporate the environmental benefits of the project into their grant applications, and the department shall utilize the statement of environmental benefits in its prioritization and selection process. The department shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The department shall consult with affected interest groups in implementing this section.

During the fiscal biennium ending June 30, 2003, the funds may be appropriated for boating safety and shellfish management, enforcement, and enhancement.

[2002 c 371 § 923; 2001 c 227 § 7; 1999 c 309 § 919; 1997 c 149 § 913; 1995 2nd sp.s. c 18 § 923; 1994 c 219 § 12; 1993 sp.s. c 24 § 927; 1987 c 350 § 1; 1985 c 57 § 79; 1984 c 221 § 24; 1982 2nd ex.s. c 8 § 4; 1969 ex.s. c 273 § 12; 1967 ex.s. c 105 § 3; 1961 c 167 § 9.]

NOTES:

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Findings--Intent--2001 c 227: See note following RCW 43.41.270.

Severability--Effective date--1999 c 309: See notes following RCW 41.06.152.

Severability--Effective date--1997 c 149: See notes following RCW 43.08.250.

Severability--Effective date--1995 2nd sp.s. c 18: See notes following RCW 19.118.110.

Finding--1994 c 219: See note following RCW 43.88.030.

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date--1987 c 350: "This act shall take effect July 1, 1989." [1987 c 350 § 3.]

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--Effective date--1984 c 221: See RCW 79.90.901 and 79.90.902.

RCW ~~79.68.080~~ 79.90.456 Fostering use of aquatic environment--Limitation.

The department of ~~natural resources~~ shall foster the commercial and recreational use of the aquatic environment for production of food, fibre, income, and public enjoyment from state-owned aquatic lands under its jurisdiction and from associated waters, and to this end the department may develop and improve production and harvesting of seaweeds and sealife attached to or growing on aquatic land or contained in aquaculture containers, but nothing in this section shall alter the responsibility of other state agencies for their normal management of fish, shellfish, game and water.

[1971 ex.s. c 234 § 8.]

RCW ~~79.08.260~~ 79.90.458 Exchange of bedlands--Cowlitz river.

(1) The department of ~~natural resources~~ is authorized to exchange bedlands abandoned through rechanneling of the Cowlitz river near the confluence of the Columbia river so that the state obtains clear title to the Cowlitz river as it now exists or where it may exist in the future through the processes of erosion and accretion.

(2) The department of ~~natural resources~~ is also authorized to exchange bedlands and enter into boundary line agreements to resolve any disputes that may arise over the location of state-owned lands now comprising the dike that was created in the 1920s.

(3) For purposes of chapter 150, Laws of 2001, "Cowlitz river near the confluence of the Columbia river" means those tidelands and bedlands of the Cowlitz river fronting and abutting sections 10, 11, and 14, township 7 north, range 2 west, Willamette Meridian and fronting and abutting the Huntington Donation Land Claim No. 47 and the Blakeny Donation Land Claim No. 43, township 7 north, range 2 west, Willamette Meridian.

(4) Nothing in chapter 150, Laws of 2001 shall be deemed to convey to the department of ~~natural resources~~ the power of eminent domain.

[2001 c 150 § 2.]

NOTES:

Findings--2001 c 150: "(1) The legislature finds that in the 1920s the Cowlitz river near the confluence of the Columbia river in Longview, Washington was diverted from its original course by dredging and construction of a dike. As a result, a portion of the original bed of the Cowlitz river became a nonnavigable body of shallow water. Another portion of the original bed of the Cowlitz river became part of a dike and is indistinguishable from existing islands. The main channel of the Cowlitz river was diverted over uplands to the south of the original bed and has continued as a navigable channel.

(2) The legislature finds that continued ownership of the nonnavigable portion of the original bed of the Cowlitz river near the confluence of the Columbia river no longer serves the state's interest in navigation. Ownership of the existing navigable bed of the Cowlitz river would better serve the state's interest in navigation. It is also in the

state's interest to resolve any disputes that have arisen because state-owned land is now indistinguishable from privately owned land within the dike." [2001 c 150 § 1.]

Severability--2001 c 150: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

[2001 c 150 § 3.]

Chapter 79.94 RCW

AQUATIC LANDS—TIDELANDS AND SHORELANDS

RCW ~~79.08.080~~ 79.94.180 Grant of lands for city park or playground purposes.

Whenever application is made to the ~~commissioner of public lands~~ department by any incorporated city or town or metropolitan park district for the use of any state owned tide or shore lands within the corporate limits of said city or town or metropolitan park district for municipal park and/or playground purposes, ~~he~~ the department shall cause such application to be entered in the records of ~~his~~ its office, and shall then forward the same to the governor, who shall appoint a committee of five representative citizens of said city or town, in addition to the ~~commissioner of public lands~~ and the director of ecology, both of whom shall be ex officio members of said committee, to investigate ~~said~~ the lands and determine whether they are suitable and needed for such purposes; and, if they so find, the ~~land~~ commissioner shall certify to the governor that the property shall be deeded, when in accordance with RCW 79.94.150 and 79.94.160, to the ~~said~~ the city or town or metropolitan park district and the governor shall then execute a deed in the name of the state of Washington, attested by the secretary of state, conveying the use of such lands to ~~said~~ the city or town or metropolitan park district for said purposes for so long as it shall continue to hold, use and maintain ~~said~~ the lands for such purposes.

[1988 c 127 § 33; 1939 c 157 § 1; RRS § 7993-1.]

RCW ~~79.08.090~~ 79.94.181 Exchange of lands to secure city parks and playgrounds.

In the event there are no state owned tide or shore lands in any such city or town or metropolitan park district suitable for such purposes and the committee finds other lands therein which are suitable and needed therefor, the ~~commissioner of public lands~~ department is hereby authorized to secure the same by exchanging state owned tide or shore lands in the same county of equal value therefor, and the use of the lands so secured shall be conveyed to any such city or town or metropolitan park district as provided for in RCW ~~79.08.080~~ 79.94.180. In all such exchanges the ~~commissioner of public lands~~ department shall be and ~~he~~ is hereby authorized and directed, with the assistance of the attorney general, to execute such agreements, writings, relinquishments and deeds as are necessary or proper for the purpose of carrying such exchanges into effect. Upland owners shall be notified of such state owned tide or shore lands to be exchanged.

[1939 c 157 § 2; RRS § 7993-2.]

RCW ~~79.08.100~~ 79.94.182 Director of ecology to assist city parks.

The director of ecology, in addition to serving as an ex officio member of any such committee, is hereby authorized and directed to assist any such city or town or metropolitan park district in the development and decoration of any lands so conveyed and to furnish trees, grass, flowers and shrubs therefor.

[1988 c 127 § 34; 1939 c 157 § 3; RRS § 7993-3.]

Chapter 79.96 RCW

**AQUATIC LANDS—OYSTERS, GEODUCKS, SHELLFISH, SEAWEED, AND OTHER
AQUACULTURAL USES**

RCW ~~79.01.800~~ 79.96.200 Seaweed--Marine aquatic plants defined.

Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Marine aquatic plants" means saltwater marine plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free-floating state. Marine aquatic plants include but are not limited to seaweed of the classes Chlorophyta, Phaeophyta, and Rhodophyta.

[1993 c 283 § 2.]

Notes:

Findings--1993 c 283: "The legislature finds that the plant resources of marine aquatic ecosystems have inherent value and provide essential habitat. These resources are also becoming increasingly valuable as economic commodities and may be declining. The legislature further finds that the regulation of harvest of these resources is currently inadequate to afford necessary protection." [1993 c 283 § 1.]

RCW ~~79.01.805~~ 79.96.210 Seaweed--Personal use limit--Commercial harvesting prohibited--Exception--Import restriction.

(1) The maximum daily wet weight harvest or possession of seaweed for personal use from all aquatic lands as defined under RCW 79.90.010 and all privately owned tidelands is ten pounds per person. The department of ~~natural resources~~ in cooperation with the department of fish and wildlife may establish seaweed harvest limits of less than ten pounds for conservation purposes. This section shall in no way affect the ability of any state agency to prevent harvest of any species of marine aquatic plant from lands under its control, ownership, or management.

(2) Except as provided under subsection (3) of this section, commercial harvesting of seaweed from aquatic lands as defined under RCW 79.90.010, and all privately owned tidelands is prohibited. This subsection shall in no way affect commercial seaweed aquaculture.

(3) Upon mutual approval by the department and the department of fish and wildlife, seaweed species of the genus *Macrocystis* may be commercially harvested for use in the herring

spawn-on-kelp fishery.

(4) Importation of seaweed species of the genus *Macrocystis* into Washington state for the herring spawn-on-kelp fishery is subject to the fish and shellfish disease control policies of the department of fish and wildlife. *Macrocystis* shall not be imported from areas with fish or shellfish diseases associated with organisms that are likely to be transported with *Macrocystis*. The department shall incorporate this policy on *Macrocystis* importation into its overall fish and shellfish disease control policies.

[1996 c 46 § 1; 1994 c 286 § 1; 1993 c 283 § 3.]

Notes:

Effective date--1994 c 286: "This act shall take effect July 1, 1994." [1994 c 286 § 6.]

Findings--1993 c 283: See note following RCW ~~79.01.800~~ 79.96.200.

RCW ~~79.01.810~~ 79.96.220 Seaweed--Harvest and possession violations--Penalties and damages.

It is unlawful to exceed the harvest and possession restrictions imposed under RCW ~~79.01.805~~ 79.96.210. A violation of this section is a misdemeanor punishable in accordance with RCW 9.92.030, and a violation taking place on aquatic lands is subject to the provisions of RCW ~~79.01.760~~ 79.02.300. A person committing a violation of this section on private tidelands which he or she owns is liable to the state for treble the amount of damages to the seaweed resource, and a person trespassing on private tidelands and committing a violation of this section is liable to the private tideland owner for treble the amount of damages to the seaweed resource. Damages recoverable include, but are not limited to, damages for the market value of the seaweed, for injury to the aquatic ecosystem, and for the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

[1994 c 286 § 2; 1993 c 283 § 4.]

Notes:

Effective date--1994 c 286: See note following RCW 79.01.805.

Findings--1993 c 283: See note following RCW ~~79.01.800~~ 79.96.200.

RCW ~~79.01.815~~ 79.96.230 Seaweed--Enforcement.

The department of fish and wildlife and law enforcement authorities may enforce the provisions of RCW ~~79.01.805~~ 79.96.210 and ~~79.01.810~~ 79.96.220.

[1994 c 286 § 3; 1993 c 283 § 5.]

Notes:

Effective date--1994 c 286: See note following RCW 79.01.805.

Findings--1993 c 283: See note following RCW ~~79.01.800~~ 79.96.200.